

1 THE HONORABLE ROBERT S. LASNIK
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9 UNITED STATES DISTRICT COURT
10 WESTERN DISTRICT OF WASHINGTON

11 CITY OF SEATTLE,

12 v.
13 Plaintiff,

14 MONSANTO COMPANY, et al.,

15 Defendants.

16 CASE NO. 2:16-CV-00107 RSL

17 STIPULATION AND ORDER
18 REGARDING PARTIES' USE OF PRIVATE
19 DISCOVERY MASTER

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21 I. STIPULATION

22 Defendants Monsanto Company, Solutia Inc., and Pharmacia LLC (“Defendants”) and
23 Plaintiff City of Seattle (“Plaintiff”) (collectively, the “Parties”) stipulate and agree to the use of
24 the Honorable Paris Kallas of Judicial Dispute Resolution as a private Discovery Master to assist
25 in resolving in a timely and cost-effective manner certain discovery disputes between the Parties.

26 The Parties stipulate and agree as follows:

27 1. The Parties shall submit their discovery disputes to a private Discovery Master as
28 provided in this Stipulation. Although the engagement will be modeled after the appointment of
a Master under FRCP 53, in the interests of time the parties will not seek the formal appointment
of the Master by the Court, nor provide for a report or recommendations by the Master to the
Court for adoption.

1 2. The Parties will jointly engage Judge Paris Kallas as a private Discovery Master,
2 for which she will be compensated at her usual and customary rates.

3 3. The Discovery Master's fees and costs will be divided equally, with Defendants
4 bearing 50% and Plaintiff bearing 50%.

5 4. The parties will jointly provide Judge Kallas with a single set of the following
6 materials: 1) Plaintiff's First Amended Complaint (without exhibits) (Dkt. # 31); 2) Defendants'
7 First Amended Answer and Counterclaims (without exhibits) (Dkt. # 91); 3) Order on
8 Defendants' Motion to Dismiss (Dkt. # 60); 4) Order on Plaintiff's Motion to Dismiss (Dkt. #
9 116); 5) Stipulated Order dismissing Defendants' remaining counterclaims (Dkt. # 132); 5)
10 Order on Plaintiff's Motion for a Protective Order (regarding mediation privilege) (Dkt. # 169);
11 and 6) Plaintiff's Damages Disclosure dated August 9, 2021 (Dkt. # 210-4). Each Party will also
12 provide the Discovery Master (and copy the other side) with its summary of the case, consisting
13 of no more than eight pages, by Friday, August 27, 2021.

14 5. The Discovery Master will have the authority to rule on: i) Plaintiff's Motion for
15 Protective Order with Respect to Monsanto's FRCP 30(b)(6) Deposition Notice (Dkt. # 185
16 (May 27, 2021)); ii) Defendants' Motion for Leave to Take Additional Depositions in Light of
17 Plaintiff's Late Designated Witnesses Under RFCP 26, Or in the Alternative to Strike the Late
18 Designated Witnesses (Dkt. # 198 (July 28, 2021)); and iii) Defendants' Motion for Protective
19 Order with Respect to Plaintiff's FRCP 30(b)(6) Deposition Notice (Dkt. # 205 (Aug. 11, 2021));
20 and iv) future discovery disputes that may arise between the Parties.

21 6. Within one day of referring issues (i) through (iii) described in ¶ 5 to the
22 Discovery Master, the Parties will notify the Court that that they are taking the pending motions
23 off calendar, to be re-noted in the future if necessary.

1 7. The Discovery Master will also have authority to assist the Parties in resolving
2 discovery disputes without resort to motions practice, where reasonably feasible.

3 8. The Discovery Master shall consider the Parties' pending motions described in (i)
4 through (iii) of ¶ 5 in a single hearing, to the extent reasonably feasible.

5 9. The Discovery Master will have the authority to assist the Parties in negotiating
6 other discovery-related scheduling issues, including future modifications to discovery-related
7 deadlines in the revised case scheduling order. Notwithstanding this authority of the Discovery
8 Master, all requests to modify the case schedule must be submitted to the Court for approval,
9 whether by stipulation or by motion.

10 10. The Discovery Master will not have authority to adjudicate the applicability,
11 reach, or scope of any claims or defenses, any liability or damages issues, or the presentation of
12 any witnesses or evidence at trial, all of which would be reserved for the exclusive province of
13 the Article III judge assigned to this matter. In ruling on Defendants' Motion for Leave to Take
14 Additional Depositions in Light of Plaintiff's Late Designated Witnesses Under FRCP 26, Or in
15 the Alternative to Strike the Late Designated Witnesses the Discovery Master will not have the
16 authority to grant Defendants' requested alternative relief, but Defendants reserve the right to
17 seek that relief from the Court, and Plaintiff reserves its rights to oppose such a request.

18 11. The Discovery Master's rulings will not be submitted as recommendations for
19 adoption by the Court, nor will the Discovery Master prepare a report for submission to the
20 Court. Absent the grant of a stay by the district court, no appeal of a Discovery Master's ruling
21 to the district court will stay implementation of that ruling, nor will it modify the case schedule.

22 12. As provided in FRCP 53(f)(2), the parties reserve the right to object to the
23 Discovery Master's rulings, in whole or in part, and submit the issue(s) to which the party
24 objects to the Court for resolution. In addition, any notice of objection to a Discovery Master's
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ruling shall be provided to the opposing party, with a copy to the Discovery Master, within five (5) business days of receipt of the ruling. Any notice of objection shall specify whether the ruling is objected to in whole or in part, and identify the scope of the objection. The Parties agree to submit the issue(s) to the Court pursuant to the Expedited Joint Motion Procedure established in LCR 37(a)(2), which will require the objecting party to timely prepare and submit its LCR 37(a)(2)(B) submission to the opposing party in order to satisfy the deadlines of both LCR 37(a)(2) and FRCP 53(f)(2). The Discovery Master's ruling on the issue(s) submitted to the Court may be offered by a Party as evidence in such a proceeding, but may not be characterized as a recommendation to the Court. A party's objection to a ruling of the Discovery Master shall have no effect on any other rulings.

13. Each party reserves the right to terminate the Discovery Master's engagement upon ten (10) days' written notice to the other party and the Discovery Master. However, to the extent the Discovery Master has any motion or issue under consideration at the time a party elects to terminate the Discovery Master's engagement, any termination will be deferred until, at the earliest, the Discovery Master rules on the motion or issue.

Dated: August 19, 2021

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ORDER

It is so ORDERED. Judge Paris Kallas shall act as a private Discovery Master in accordance with the foregoing stipulation of the parties.

Dated August 23, 2021.

Mr S Casnik

The Honorable Robert S. Lasnik